

PLEASE TAKE NOTICE that upon the accompanying Memorandum of Law, the annexed Declarations of Nathan Shaman, Esq., Jeffrey A. Lake, Esq., and Paul D. Ceglia, together with the accompanying exhibits, the undersigned will move this Court, pursuant to Fed. R. Civ. P. 37 and L.R. Civ. P. 7, at a date to be set by the Court, for an order compelling Defendants Mark Zuckerberg and Facebook, Inc. to comply with this Court's order dated July 1, 2011 ("Order," Doc. No. 83), which directed that:

“ . . . five (5) days subsequent to Plaintiff’s production of the Electronic Assets and his sworn declaration, Defendant shall produce all emails in their original, native and hard-copy form between Defendant Zuckerberg and Plaintiff and/or other persons associated with StreetFax that were captured from Zuckerberg’s Harvard email account.” (Order at 2-3.)

The Order further directed that:

“ . . . on July 15, 2011, Defendant Zuckerberg shall provide a sworn declaration certifying his good-faith efforts to locate as many handwriting samples as possible, but no more than thirty (30), specifically, up to but no more than ten (10) samples of handwriting, ten (10) samples of initials, and ten (10) samples of signatures, written between January 1, 2003 and July 31, 2004” (Order at 3.)

1. On July 14, 2011, Plaintiff’s counsel Jeffrey A. Lake filed a Declaration pursuant to and in compliance with the Order. (*See* Doc. No. 87, attached hereto as Exhibit A.)

2. On July 15, 2011, Plaintiff Paul D. Ceglia filed a Declaration pursuant to and in compliance with the Order. (*See* Doc. No. 88, attached hereto as Exhibit B.)

3. Defendant Mark Zuckerberg failed to file a certificate on or before July 15, 2011 certifying his good-faith efforts to locate handwriting samples.

4. On July 20, 2011—the deadline set by the Order for Defendant Zuckerberg’s production of emails—and notwithstanding Plaintiff’s compliance with the Court’s Order, Defendant Zuckerberg’s counsel sent a letter to Plaintiff’s counsel stating that Defendant would not comply with the Court’s Order. (*See* Letter from Alexander Southwell dated July 20, 2011; and Declaration of Jeffrey A. Lake Pursuant to Local Rule 7(d)(4), attached hereto as Exhibits C and D, respectively.)

5. On July 21, 2011, Defendant Zuckerberg's counsel represented to Plaintiff's counsel that Defendant would not comply with the Order. (*See* Declaration of Nathan Shaman Made Pursuant to Local Rule 7(d)(4), attached hereto as Exhibit E.)

6. Defendant Zuckerberg's willful failure to comply with the Court's Order has continued as of the time of the filing of this Motion, and Defendant has neither produced the emails to Plaintiff by July 20, 2011 as required by the Order, nor has Defendant Zuckerberg provided a sworn declaration certifying his good-faith efforts to locate the handwriting samples by the July 15, 2011 deadline set forth in the Order.

Pursuant to Local Rule 7(a)(1), Plaintiff hereby states his intention to file and serve reply papers.

WHEREFORE, Plaintiff respectfully requests that the Court grant this Motion and order Defendant Zuckerberg to comply forthwith with its July 1, 2011 Order, together with such other and further relief as it deems appropriate.

The undersigned hereby certify that movant has in good faith met and conferred with the party failing to act in an effort to obtain Defendants' compliance with the Court's July 1, 2011 Order.

Dated: July 25, 2011

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Respectfully submitted,

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